REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Appreciation is expressed to Examiner Prone for withdrawing the finality of the prior Official Action.

As discussed below in more detail, it is respectfully submitted that the claims currently at issue in this application are patentably distinguishable over the disclosure contained in European Application Publication No. 0 795 304 to *Yousuke et al.*, considered alone or in combination with the disclosure in U.S. Patent No. 5,695,516 to *Fischell et al.*

Prior to filing this response, the undersigned contacted Examiner Prone to arrange an interview for purposes of discussing the rejections set forth in the Official Action and noting the patentable distinctions noted below. Mr. Prone's schedule would not permit an interview prior to the filing of this response. Examiner Prone was thus asked to call the undersigned if, after studying the remarks above, the Examiner still believes the disclosure in the applied references have relevance to the claimed subject matter recited in the independent claims of this application.

The claims currently at issue in this application are Claims 1-19. Claims 1, 8, 12 and 18 are the only independent claims. Claims 1, 8 and 18 recite an indwelling stent, while independent Claim 12 recites a living organ dialator that includes an indwelling stent. Each of the independent claims recite that the indwelling stent comprises annular units arranged in an axial direction of the stent, with each of the annular units being comprised of a plurality of annular elements positioned to surround the stent axis. Each of the claims also recites that adjacent portions of the

annular elements are joined to each other through a joint, and that adjacent annular units are interconnected at the joints by at least one link. Further, each of the independent claims recites that the annular elements in each annular unit are arranged so that one annular element of each adjacent pair of annular elements is axially offset in the axial direction of the stent relative to the other annular element of the adjacent pair of annular elements. In other words, considering for example the adjacent pair of annular elements 2a, 2b of an annular unit 4 as shown in Figs. 4 and 5 of the present application, the annular element 2a is axially offset in the axial direction of the stent relative to the annular element 2b. In at least this respect, the claimed subject matter set forth in the independent claims, distinguishes over the disclosures in the applied documents.

Yousuke et al. discloses an implanting stent comprised of a plurality of axially arranged annular units for 4a-4f. Each of the annular units 4a-4f includes a plurality of elements 2a-2d. However, what *Yousuke et al.* does not disclose is that the annular elements 2a-2d are arranged so that one annular element of each adjacent pair of annular elements 2a-2d is axially offset in the axial direction of the stent relative to the other annular element of the adjacent pair of annular elements. Indeed, in each of the embodiments of the stent disclosed in *Yousuke et al.*, the adjacent annular elements 2a-2d in the annular units are axially aligned with one another. Simply stated, there is no axial offset between adjacent annular elements 2a-2d forming the respective annular units 4a-4f. This is clear from the illustrations in *Yousuke et al.*, particularly the illustrations in Figs. 5, 7, 8, 9 and 12.

It is thus respectfully submitted that the anticipatory rejection of independent Claim 8 is inappropriate and should be withdrawn.

Further, with respect to the obviousness rejections of the other independent claims based on *Yousuke et al.* in combination with the disclosure in *Fischell et al.*, the latter document does not make up for the deficiencies pointed out above with respect to the disclosure in *Yousuke et al.* As in the case of the stent disclosed in *Yousuke et al.*, the stent described and illustrated in *Fischell et al.* does not include annular elements of an annular unit arranged so that one annular element of an adjacent pair of annular elements is axially offset in the axial direction of the stent relative to the other annular element of the adjacent pair of annular elements. It is thus respectfully submitted that independent Claims 1, 12 and 18 are patentably distinguishable over a combination of the disclosures in *Yousuke et al.* and *Fischell et al.*

For at least the reasons set forth above, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should any questions arise in connection with this application or should the Examiner believe that a telephone conference with the undersigned would be helpful in resolving any remaining issues pertaining to this application the undersigned respectfully requests that he be contacted at the number indicated below.

Respectfully submitted,

Buchanan Ingersoll & Rooney PC

Date: July 17, 2006

By: _____
Matthew L. Schneider
Registration No. 32,814

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620